

HOUSE BILL 418

By Coleman

AN ACT to amend Tennessee Code Annotated, Title 31,  
Chapter 4, relative to the elective share of a  
surviving spouse.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 31-4-101(b), is amended by deleting the current language in its entirety and by substituting instead the following:

(b) The value of the net estate includes all of the decedent's real property, notwithstanding § 31-2-103, and personal property subject to disposition under the provisions of the decedent's will or the laws of intestate succession, reduced by the following: secured debts to the extent that secured creditors are entitled to realize on the applicable collateral, funeral and administration expenses, and award of exempt property, homestead allowance and year's support allowance. The net estate does not include any assets over which the decedent held a power of appointment, whether exercised or not, unless the decedent exercises the power of appointment to direct the assets to be paid to the decedent's personal representative for administration as part of the decedent's probate estate.

SECTION 2. Tennessee Code Annotated, Section 31-4-101(c), is amended by inserting the language “, excluding the homestead allowance, exempt property and year's support allowance,” between the language “decedent's gross estate” and the word “which” in the first sentence of that subsection.

SECTION 3. Tennessee Code Annotated, Section 31-4-101(d), is amended by deleting the current language in its entirety and by substituting instead the following:

(d) The elective-share amount payable to the surviving spouse is exempt from the claims of unsecured creditors of the decedent's estate and, notwithstanding § 30-2-

614(b) or (e), shall not be allocated to any United States or any state estate, inheritance or other death transfer tax if the elective share amount qualifies for and is used as a marital deduction in determining the decedent's death tax liability under any applicable estate, inheritance or other death transfer tax statute.

SECTION 4. Tennessee Code Annotated, Section 31-4-102(a)(1), is amended by deleting the current language in its entirety and by substituting instead the following:

(a)

(1) The surviving spouse may elect to take such spouse's elective share in decedent's property by filing in the court and mailing or delivering to the personal representative, if any, a petition for the elective share within nine (9) months after the date of death.

SECTION 5. This act shall take effect July 1, 2007, the public welfare requiring it.